

## **REMARKS**

Claims 1-19 are pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

## **DRAWINGS**

The Examiner has objected to the drawings under 37 C.F.R. §1.83(a) as not showing every feature of the invention specified in the claims. More specifically, the Examiner has stated that the plurality of intersecting lines, which are specified in Claim 6, and the loop and a strap, which are specified in Claim 9, are not illustrated. This objection is respectfully traversed.

Regarding the intersecting lines, Applicant directs the Examiner to Figure 2, reference numeral 38, which generally indicates a series of perforations that include linear segments of perforations 38a, 38b, 38c and 38d. Applicant notes that the linear segments of perforations 38a, 38b, 38c and 38d intersect at point (C). Accordingly, Applicant respectfully submits that the drawings, as originally filed, show the intersecting lines that are specified in Claim 6.

Regarding the loop and strap, Applicant directs the Examiner to Figure 13, reference numeral 24, which generally indicates one type of tensioner. As provided in paragraph [0032], each tensioner can include a first tensioner portion 110, which can comprise one or more loops 110a, and a second tensioner portion 112, which can comprise a segment of conventional hook-and-loop fastener (e.g., VELCRO®) that is fixedly coupled to the base 20 at a first end 120 and threaded through

### **AMENDMENTS TO THE DRAWINGS**

The attached sheets of formal drawings replace the originally filed informal drawings.

Attachment: Replacement (Formal) Sheets and copy of originally filed drawings (in color).

an associated loop 110a at a second end 122. Accordingly, Applicant respectfully submits that the drawings, as originally filed, show the loop and strap that are specified in Claim 9.

The Examiner has also objected to the drawings as being unclear, stating that various reference numerals point at nothing. Applicant notes that the originally filed drawings were informal, filed in color, and that the color of the base 20 was yellow (and as such, the originally filed drawings may not have copied too well). Accordingly, Applicant has submitted herewith a set of formalized replacement drawings (with Figures 1 through 13). Applicant has also submitted herewith one copy of the originally filed drawings (in color) for the Examiner's reference. Applicant submits that basis for the amendment to the drawings may be found throughout the application, drawings and claims as originally filed and as such, the formal drawings submitted herewith do not add new matter. Accordingly, Applicant submits that the objection to the drawings has been rendered moot.

#### **REJECTION UNDER 35 U.S.C. § 102**

Claims 17-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Crawley (U.S. Pat. No. 5,085,001). This rejection is respectfully traversed.

Applicant initially notes that Crawley appears to disclose a mulch skirt with a plastic sheet body (11) and a rigid retaining (spring) ring (12A) that is received into a hem (21) that is formed in the sheet body (11). Anchors (27) may be employed to secure the hem (21) to the ground.

In contrast, the methodology of Claim 17 recites:

A method of installing a protective ground mat to the ground, the protective ground mat having a non-rigid base, the method comprising:  
    securing the protective ground mat to the ground at a plurality of locations;  
and  
    tensioning the base after it has been secured to the ground so that it conforms to a contour of the ground.

Applicant notes that Claim 17 requires a) a non-rigid base and b) that the ground mat be secured to the ground at a plurality of locations and thereafter tensioned to cause the ground mat to conform to the contour of the ground. Crawley neither teaches or suggests a non-rigid base or tensioning of a mat after it has been secured to the ground.

In this regard, the retaining ring (12A) of the Crawley mulch skirt is rigid and extends about the entire perimeter of the mulch skirt. The rigid nature of the retaining ring (12A) maintains the slit in a closed condition. Accordingly, the non-rigid base limitation is neither taught nor suggested by Crawley.

Furthermore, the anchors (27) of the Crawley reference are employed to secure the hem of the mulch skirt to the ground at a point in time after the rigid retaining ring (12A) has been installed to the hem (21) of the mulch skirt. As such, the sheet body of the Crawley reference is not tensioned after the sheet body has been secured to the ground at a plurality of locations (as noted above, the sheet body is not tensioned, either).

In view of the above remarks, Applicant submits that the Examiner has not set forth a *prima facie* case of anticipation. Accordingly, Applicant respectfully requests reconsideration and withdrawal of the rejection of Claim 17 under 35 U.S.C. §102(b).

Applicant notes, too, that Claims 18 and 19 depend from Claim 17 and as such, they should be in condition for allowance for the reasons set forth for Claim 17, above.

#### **REJECTIONS UNDER 35 U.S.C. § 103**

Claims 1, 2, 4-8, 10-15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Crawley. Claims 3 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Crawley in view of Hansen (U.S. Pat. No. 6,128,852). Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Crawley in view of Ireland (U.S. Pat. No. 1,321,747). These rejections are respectfully traversed.

Applicant directs the Examiner to the preceding section for a discussion of the Crawley reference.

Applicant next notes that establishment of a *prima facie* case of obviousness requires that three basic criteria be met: 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings, 2) that there must be a reasonable expectation of success, and 3) that the prior art reference or references must teach or suggest all the claim limitations. *See, e.g., In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Moreover, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on an applicant's disclosure. *Id.*

The Examiner has stated that the tensioners (12A or 12B) have “first and second portions that may be selectively coupled to the first portion (as shown in fig. 4, the ends 23, 24 overlap each other) to adjust a distance between an associated pair of hold-downs (by moving the ends 23, 24), the base with be smaller or larger, thus, adjusting the distance between the stakes 27, 28). However, Crawley is silent about having more than one tensioner. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have more than one tensioner in the mat of Crawley, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.”

Claim 1 of the present application recites:

A protective ground mat comprising:  
a non-rigid base;  
a plurality of hold-downs coupled to the base; and  
a plurality of tensioners, each tensioner having a first portion and a second portion that may be selectively coupled to the first portion to adjust a distance between an associated pair of the hold-downs.

As discussed above, the Crawley mulch shield fails to teach or suggest a non-rigid base.

Despite the Examiner’s characterization of the Crawley anchors as being “hold-downs”, Applicant notes that the term “hold-down” has not been defined as such in the present application. In this regard, a “hold-down” is an anchoring point, such as a grommet or a hole in the base, a loop, tab, hook or length of material (e.g., rope, cord, VELCRO ® fabric), for example. The Crawley reference does not teach or suggest discrete hold-downs but rather employs any portion of the rigid hem to secure the mulch skirt to the ground.

The Crawley reference also fails to teach or suggest even one tensioner having a first portion and a second portion that may be selectively coupled to the first portion to adjust a distance between an associated pair of the hold-downs. In that regard, Applicant notes that the retaining ring of the Crawley reference is entirely disposed within the hem of the sheet body - the ends of the ring are not selectively coupled to one another but merely overlies one another. Furthermore, as the rigid retaining ring extends about the entire perimeter of the sheet body, and as the hem (into which the rigid retaining ring is inserted) is employed to anchor the Crawley mulch skirt to the ground, it is unclear how the addition of a second retaining ring would affect the hem.

In view of the above remarks, Applicant respectfully submits that the Examiner has not set forth a *prima facie* case of obviousness. Specifically, the Examiner has provided no motivation for the modification suggested (i.e., the second retaining ring appears to be superfluous and would not satisfy the limitations directed to the tensioners), that the Crawley reference, as modified, would perform in the manner suggested by the Examiner (i.e., no reasonable expectation of success), or that even as modified, the Crawley reference teaches or suggests each and every claim limitation. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of Claim 1 under 35 U.S.C. §103(a).


Applicant notes that Claims 2 through 15 depend from Claim 1 and as such, should be in condition for allowance for the reasons set forth for Claim 1, above.

Applicant notes that Claim 16 includes distinguishing limitations that are similar in nature to those found in Claim 1. Accordingly, Claim 16 should be in condition for allowance for the reasons set forth for Claim 1, above.

**CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

By:   
\_\_\_\_\_  
Michael D. Zalobsky  
Reg. No. 45,512

Dated: 9 March 2005

HARNES, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600